MEMO ENDORSED

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Motion for Reconsideration pursuant to Rule 60(b) (Docket No. 10) denied without prejudice because it is withdrawn.
So ordered.
John G. Koeltl
U.S.D.J.

Hon. John G. Koeltl, U.S.D.J.
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: Software for Moving, Inc. v. La Rosa Del Monte Express, Inc.
Case No. 08-CV-986

Dear Judge Koeltl:

As Your Honor may be aware, our firm represents Defendants La Rosa Del Monte Express, Inc. ("La Rosa New York") and La Rosa New York Del Monte Express (Chicago), LLC ("La Rosa Chicago", together with La Rosa New York "Defendants"). We write the Court at this time in order to inform the Court that Defendants are withdrawing their presently pending Rule 60(b) motion, and to request a conference with the Court regarding setting a discovery schedule so that the parties can prepare for a hearing on the issue of the arbitrability of this dispute between the parties.

As Your Honor may recall, this action was initiated by Plaintiff, Software for Moving, Inc. ("SFM" or "Plaintiff") in the Northern District of Illinois in or about March 2007. Plaintiff filed this action after Defendant La Rosa New York filed a Demand for Arbitration against SFM in February of 2007 before the American Arbitration Association ("AAA") in New York City. An Arbitrator was chosen, and

SFM and La Rosa had multiple conferences with the A.A.A and the Arbitrator, as well as agreeing on a discovery schedule; SFM and its President, Shlomo Kogos, then reneged on their discovery obligations. Despite directives from the Arbitrator that the parties engage in good faith discovery; to date, SFM has produced no discovery, and has refused to produce Mr. Kogos for deposition.

In May and June of 2007, Defendants filed motions to dismiss SFM's action pursuant to Federal Rule of Civil Procedure 12, for a stay of the action pending the Arbitration, or for a transfer of this action to the Southern District of New York as the parties are almost all from New York, and the conduct at issue took place in New York City. SFM opposed the motion, and moved to stay the Arbitration under Section 4 of the Federal Arbitration Act, requesting court proceedings to determine the issue of the arbitrability of the dispute.

While that motion in the Federal Court was pending, SFM brought motions to stay the Arbitration before Judge Feinman of the New York Supreme Court and Arbitrator Mandel. La Rosa cross-moved in the New York State Action to compel Arbitration. Arbitrator Mandel stayed the Arbitration pending an Order from a Court of competent jurisdiction directing the parties to arbitrate. On December 5, 2007, Judge Feinman denied SFM's motion, and granted La Rosa's cross-motion to compel, and directed the parties to arbitrate the dispute.

On December 7, 2007, Judge Gottschall of the Northern District of Illinois issued a Decision and Order granting Defendants' motion to transfer this action to the Southern District of New York, but staying the Arbitration pending a hearing on the issue of arbitrability of the dispute. Judge Gottschall was not aware of Judge Feinman's Decision when she issued her Order.

Subsequently, after the action was transferred to this Court, Defendants filed a motion under Rule 60(b) to stay this action as a result of the December 5, 2007 Order of Judge Feinman, and as a result of SFM's failure to disclose material information to Judge Gottschall; SFM failed to disclose to Judge Gottschall that SFM's only place of business is in New York City. Recently, upon the motion of SFM, Judge Feinman issued an Order vacating the previous Default Judgment against SFM, vacating his Order directing the parties to Arbitration, and deferring on the issue of arbitrability to the Federal Court. A copy of Judge Feinman's recent Order is attached hereto.

In order to expedite this matter, and get to a clear resolution of the issue of the arbitrability of this dispute, we have contacted Plaintiff's counsel and indicated a

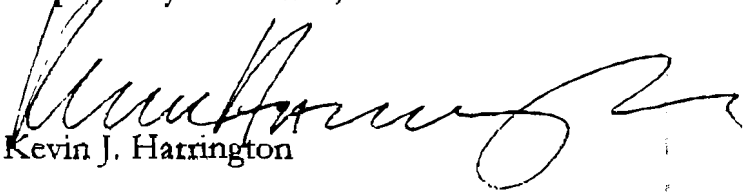
willingness to withdraw the pending Rule 60(b) motion subject to the parties stipulating to a discovery schedule. Plaintiff's counsel indicated Plaintiff's unwillingness to stipulate to any discovery schedule.

Therefore, at this time, Defendants wish to inform the Court that Defendants are withdrawing their pending Rule 60(b) motion, without prejudice.

Defendants also wish to appear before the Court for a conference in order to establish a Court-ordered discovery schedule to enable Defendants to prepare for a hearing on the issue of arbitrability, and on SFM's claim that SFM never reviewed, approved or signed the agreement(s) containing arbitration clauses. Defendants request that during this conference, the Court issue an order regarding the discovery schedule, including ordering the depositions of Plaintiff's President, Shlomo Kogos, as well as non-party depositions of Steven Dalzell (former employee of Defendant La Rosa New York), and other former employees of SFM involved in negotiating and implementing the software agreements, as well as written discovery, including electronic discovery pertinent to the issue of the negotiation and execution of the relevant agreement(s). Electronic discovery is particularly critical as the crux of this dispute revolves around software, an agreement by the parties regarding the licensing and maintenance of such software, and includes numerous electronic communications between the parties and their representatives.

We thank the Court in advance for its time and consideration in this matter.

Respectfully submitted,



Kevin J. Harrington

KJH/sg
Encl.

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